IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17277 of 1998

Between:

The Depot Manager,
A.P.S.R.T.C., Jeedimetla, Ranga Reddy District.

..... PETITIONER

AND

1 The Labour Court-III, Rep. by its Presiding Officer,
Hyderabad.
2 Sri K. Vishnu Murthy, S/o. K. Ramaiah,
R/o. H.No. 1-261, Choutuppal Village, Post & Village,

Nalgonda District-508252 (A.P)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any Writ, in the nature of Certiorari by calling for the records of the Labour Court-III, Hyderabad in I.D.No. 649/93 dt. 25.7.97 and same be set aside by holding that the removal order dt. 3.12.87 holds good.

Counsel for the Petitioner: MR.Y.VIVEKANANDA SWAMY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: MR.G.RAVI MOHAN

The Court made the following:

ORDER:

This writ petition is filed by the Depot Manager, A.P.S.R.T.C., Jeedimetla, Ranga Reddy District, being aggrieved by the award passed by the Labour Court-III, Hyderabad, in I.D.No.649 of 1993, dated 25.07.1997.

Before the Labour Court, the respondent-workman filed a claim petition under Section-2 (A) (2) of the Industrial Disputes Act, 1947, praying to set aside the order of removal passed by the petitioner-Management in its proceedings, dated 03.12.1997, and to direct the management to reinstate the him into service with backwages and all attendant benefits.

It seems on the allegation made by the Chief Inspector, APSRTC, Jeedimetla, on 09.10.1987 stating that the respondent-workman unauthorisedly absented from duties, from 26.09.1987 to 13.10.1987, a charge sheet was issued and after conducting a detailed enquiry into the matter, the respondent-workman was removed from service. Therefore, the respondent-workman raised Industrial Dispute before Labour Court complaining that enquiry was not properly conducted and the punishment imposed is disproportionate to that of the misconduct alleged. The Labour Court took up the validity of domestic enquiry as a preliminary issue and held the same is vitiated and directed both the parties to lead their evidence before it. However, no oral evidence was let in by both the parties. The petitioner-Management however marked documents Exs.M-1 to M-21. On the basis of the entire evidence on record, the Labour Court came to the conclusion that the charges are not proved and in the result, the petitioner-Management was directed to reinstate the respondent-workman into service with attendant benefits like continuity of service, etc., but, without any backwages. Aggrieved by the same, the present writ petition is filed.

I have given my earnest consideration to the respective submissions

made by the learned counsel on either side, perused the award passed by the Labour Court and also other material made available on record. At the outset, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court under Article-226 of the Constitution of India. The domestic enquiry conducted by the petitioner-Management was held to be invalid and opportunity was given to the petitioner-Management to substantiate its case. Inspite of that, no oral evidence was let in, except marking certain documents. On the basis of the documentary evidence, the Labour Court found that the charges are not proved. It was noticed by the Labour Court that M.W-1, who was examined before the enquiry officer, stated that he worked as a Traffic Inspector Grade-II, Jeedimetla Depot in the year 1997 and also stated that he submitted a report to the Depot Manager regarding the absence of the petitioner during the relevant period and that the petitioner did not submit any medical certificate, etc. However, it was the case of the petitioner that he was not served with the impugned orders dated 03.12.1987 (Ex.M-15). Further, the respondent-workman denied the allegations made against him that his absence caused dislocation of work, inconvenience to the public and loss of revenue to the Corporation. In fact, the witness in his cross-examination clinchingly stated that Ex.M-5 was returned unserved and so also the enquiry notices, marked as Exs.M-6 and M-7, were not received by him. This fact was not rebutted by the petitioner-Management by marking any documentary evidence. Therefore, the Labour Court has rightly held the domestic enquiry to be invalid and directed the petitioner-Management to lead evidence before it, but no further evidence was let in by the petitioner-Management except marking certain documents, which are part and parcel of the enquiry conducted by themselves. Therefore, the claim of the respondent-workman stands un-rebutted in the absence of any documents filed by the petitioner-Management showing that the respondent-workman has not applied for leave and, if really, the respondent-workman had not submitted any leave application and medical certificate, etc., as claimed by him, nothing prevented the petitioner-Management to produce the register

concerned to prove the allegations against the respondent-workman. Even otherwise, it is found that there was no blemish in the past conduct of the respondent-workman.

Under those circumstances, particularly in the absence of production of any document by the petitioner-Management to substantiate its case, the Labour Court has rightly came to the conclusion that the domestic enquiry was not properly conducted and the charges were not proved, and directed the petitioner-Management to reinstate the respondent-workman into service with all attendant benefits but without any backwages. I am of the considered opinion that the Labour Court has not committed any error calling for interference of this Court under Article-226 of the Constitution of India.

The writ petition is devoid of merits and is liable to be dismissed and is accordingly dismissed. No order as to costs.

(C.V.RAMULU, J)

28.06.2005

DR
To

1 The Presiding Officer, Labour Court-III,
Hyderabad.
2 2 CCs to Government Pleader for Labour, High

Court Buildings, Hyderabad. (OUT)

3 2 CD copies